

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

RONALD MOORE,)
)
Plaintiff,)
)
v.) Case No. 12-4225-CV-DPR
)
CAROLYN W. COLVIN, Acting)
Commissioner of Social Security,¹)
)
Defendant.)
)

MEMORANDUM AND ORDER

An Administrative Law Judge (“ALJ”) denied Social Security Disability Insurance Benefits and Supplemental Security Income to Plaintiff Ronald Moore in a decision dated March 18, 2011 (Tr. 21-31). The Appeals Counsel denied review. Thus, the ALJ’s decision became the Commissioner of Social Security’s final decision denying benefits. *See* 42 U.S.C. § 405(g); 20 C.F.R. § 404.981; 20 C.F.R. § 416.1481. For the reasons set forth below, the decision of the Commissioner of Social Security is **AFFIRMED**.

LEGAL STANDARDS

Judicial review of a denial of disability benefits is limited to whether there is substantial evidence on the record as a whole to support the Social Security Administration’s decision. 42 U.S.C. § 405(g); *Minor v. Astrue*, 574 F.3d 625, 627 (8th Cir. 2009). Substantial evidence is “such evidence as a reasonable mind might accept as adequate to support a conclusion.”

¹ The proper defendant in an appeal of a denial of Social Security benefits is the Commissioner of Social Security. Carolyn W. Colvin became the Acting Commissioner of Social Security on February 14, 2013. Pursuant to Fed. R. Civ. P. 25(d), Carolyn W. Colvin is substituted for the Social Security Administration as defendant in this action.

Richardson v. Perales, 402 U.S. 389, 401 (1971) (quoting *Consolidated Edison Co. V. NLRB*, 305 U.S. 197, 229 (1938)). “Substantial evidence on the record as a whole,” however, requires a more exacting analysis, which also takes into account “whatever in the record fairly detracts from its weight.” *Minor*, 574 F.3d at 627 (quoting *Wilson v. Sullivan*, 886 F.2d 172, 175 (8th Cir. 1989)). Thus, where it is possible to draw two inconsistent conclusions from the evidence, and one conclusion represents the ALJ’s findings, a court must affirm the decision. *See Robinson v. Sullivan*, 956 F.2d 836, 838 (8th Cir. 1992) (citing *Cruse v. Bowen*, 867 F.2d 1183, 1184 (8th Cir. 1989)). In other words, a court should not disturb an ALJ’s denial of benefits if the decision “falls within the available zone of choice.” *Buckner v. Astrue*, 646 F.3d 549, 556 (8th Cir. 2011). A decision may fall within the “zone of choice” even where the court “might have reached a different conclusion had [the court] been the initial finder of fact.” *Id.* (quoting *Bradley v. Astrue*, 528 F.3d 1113, 1115 (8th Cir. 2008)). A reviewing court is directed to “defer heavily to the findings and conclusions” of the Social Security Administration. *Howard v. Massanari*, 255 F.3d 577, 581 (8th Cir. 2001).

ANALYSIS

The operative facts and arguments are thoroughly presented in the parties’ briefs and will not be duplicated here. Plaintiff argues that the ALJ erred in failing to properly consider whether the claimant met listing 12.05C for mental retardation; failing to properly evaluate the opinion evidence in the record; and failing to properly consider the claimant’s subjective complaints of pain (Doc. 16). The Court has thoroughly reviewed the claimant’s medical records, the opinion evidence, hearing testimony, and the ALJ’s opinion, and finds that the ALJ’s determinations are based upon substantial evidence on the record as a whole.

The ALJ’s written opinion reflects that he did evaluate the claimant’s intellectual

functioning according to listing 12.05, and found that the claimant did not meet *both* the IQ and other-functional-limitation requirement of paragraph C. The ALJ also found that the claimant did not meet the requirements of any other subparagraph of listing 12.05. Review of the record reveals that substantial evidence exists to support these findings. Furthermore, the ALJ thoroughly discussed the opinion evidence in the record, and he supported his determination that the claimant's statements were not fully credible by citing to inconsistencies between the claimant's subjective complaints and the medical and other evidence in the record. Despite the existence of some evidence in the record that may support the opposite conclusion, the Court finds that the record as a whole reflects substantial evidence to support the ALJ's decision. Taken together, the ALJ's determinations fall within the acceptable "zone of choice" of the finder of fact, to which the court gives great deference. Accordingly, the Court will not disturb the ALJ's denial of benefits.

Therefore, based on all the foregoing, **IT IS ORDERED** that the decision of the Commissioner of Social Security is **AFFIRMED**.

IT IS SO ORDERED.

DATED: September 19, 2013

/s/ *David P. Rush*
DAVID P. RUSH
United States Magistrate Judge